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July 16, 1987

Charles C. Bering, Esquire  
Assistant Regional Counsel  
United States Environmental Protection Agency  
Region One  
J.F.K. Federal Building  
Boston, Massachusetts 02203

JUL 20 1987

REGION I  
OFFICE OF REGIONAL COUNSEL

Dear Mr. Bering:

This is in response to your letter of May 26 in which you "invite and encourage Aerovox to provide EPA with any information concerning microbial degradation of PCBs you feel we should consider in our Remedial Investigation/Feasibility Study." You go on to say that EPA is required under §113(k)(2) of SARA to provide for the participation of interested persons in the development of the administrative record and that if Aerovox has information which it wishes EPA to consider, it should provide EPA with the necessary information.

Before I respond to your invitation to supplement the material which you acknowledge you have received in the litigation pending before Judge Young, I need clarification as to the process EPA is following.

As you know, it has been my position from the outset of the proceedings (for example, see my letter to you dated November 25, 1985) that Aerovox is entitled to an adjudicatory hearing with respect to any remediation or cleanup activities as to which the United States or the Commonwealth might seek cost recovery from Aerovox. Indeed, §113 (k)(2) of SARA specifically provides that regulations are to be promulgated to carry out the requirements under that section. I have never received any assurance from you or anyone else that my client would be afforded the procedural due process to which it is entitled. Although

Charles C. Bering, Esquire

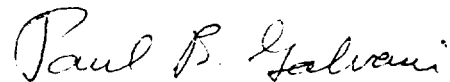
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subsection (c) of §113(k)(2) provides that, pending promulgation of the requisite regulations, current procedures shall be followed and shall not be an adjudicatory hearing, I submit that there are no adequate current procedures, and, in any event, that an adjudicatory hearing is guaranteed by the Constitution and general principals of administrative law.

While Aerovox would like to respond and to participate as appropriate in valid EPA proceedings, I must be advised initially as to what procedures EPA is following and how it intends to proceed.

Very truly yours,

A handwritten signature in cursive script that reads "Paul B. Galvani".

Paul B. Galvani

PBG/jmm